

4COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal¹

Docket No. 09-694

Appellant(s): Donald Moe, Millbury Federated Church vz. Appellee(s): Town of : Millbury
Robert Blackman

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant him a variance from 7th Edition 780 CMR 424.4.1.4 for Millbury Federated Nursery School, 20 Main Street, Millbury, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on January 20, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

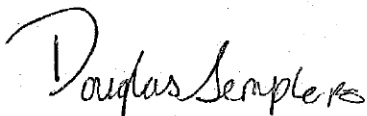
The Appellant and appeared and testified for the hearing.

Discussion

A motion was made to dismiss the Appellant's request for a variance from 7th Edition 780 CMR, 424.4.1.4, based on the exhibits and testimony that was presented. The building inspector noted that the fire safety illumination issue relative to 424.4.1.4 had already been addressed by the appellant. Regarding the continued use of an existing stair railing which exceeds the height required in the current code for new railings, the Board noted the existing railing height was an existing condition - therefore not in violation, and a therefore the variance request was inappropriate. The Board noted the notice from the building inspector to the appellant triggering this appeal did not cite any safety concern. The motion noted that that the Millbury building inspector was generally not opposed to the granting of the variance. There was a second on the motion and a board vote was taken, which was unanimous.

Conclusion

The Appellant's request for a variance from 7th Edition 780 CMR 424.4.1.4 is hereby granted as described in the discussion above and so ordered² on this date: January 20, 2009.



Douglas Semple



Jacob Nunnemacher



Alexander MacLeod

¹ This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108

² In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.